

Notice of Allowability

Application No.

09/821,504

Applicant(s)

SAWYER, BRIAN N.

Examiner

Raymond J. Bayerl

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to appeal brief, 28 November 2005.
2. ☒ The allowed claim(s) is/are 1 - 17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 28 October 2003.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

1 February 2006

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1. The following is an Examiner's statement of reasons for allowance:

Responsive to the appeal brief of 28 November 2005, the outstanding prior art rejections of the presently claimed invention have been reconsidered. Specifically, the rejections under 35 USC 102(b), 103(a) that rely upon Ono et al. ("Ono"; US #5,668,966) are deemed to be overcome.

Concerning the two independent claims 1, 12, appellant argues at pages 8 – 11 of the brief that Ono does not teach that a "filter" should be composed of "criteria" selected from a "library of available criteria to be used in filtering a population of items to identify items of interest". Upon the instant review, the Examiner agrees that the storage of a search predicate that is used to query objects to be searched is not a properly-characteristic set of stored "criteria" that could be called a "library". A "library" in the sense of applicant's invention is a user reference resource, and not a mere working content that is retained to develop a further search.

It is noted that the organization/storage section in Ono may store a predicate in a disk, diskette, memory card, ROM, or another memory device (col 12, lines 47 – 50). Such storage, which is more than run-time buffering in RAM, could be readily used to hold a collection of predicates that could be used as a "library". In the instance of Ono, however, there is missing a proper suggestion that the contents of the organization/storage section should be viewed as a "library", and not a set of stored predicates from individual sessions of an individual user.

In a further search of the prior art, the Examiner notes that in Carter et al. ("Carter"; US #6,085,187), a dictionary of descriptive terms is used in a search interface

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for navigating a hierarchy (Abstract). Such a dictionary as Carter's might initially read upon the "library" of independent claims 1, 12. However, the actual use to which the Carter dictionary is put is that of navigating a concept hierarchy, which does not reasonably read upon appellant's search for "a list of items of interest satisfying a current set of criteria defining the filter". Instead, the terms obtained in Carter are used to find correlated points in a concept hierarchy, and the resultant entry point into a tree view of the hierarchy, where the "items of interest" are not a set that satisfies the "criteria". They are those "items" that happen to appear in the hierarchy view, which does not read upon the claimed "list" that is returned.

The Examiner's updating of the search revealed the GRAPHICAL USER INTERFACE FOR BUILDING BOOLEAN QUERIES AND VIEWING SEARCH RESULTS that appears in Neale et al. ("Neale"; US #6,925,608 B1). In Neale, a Boolean query is depicted in a folder tree hierarchy (Abstract), such as the one developed from search cells in the example of fig 7. Like the predicate manipulation of Ono, which associates "criteria" with "a tier of the filter" by incorporating such predicates into the hierarchy of a composite predicate, Neale's placement of search cells is also into "a tier of the filter" that is developed as a query. However, while it is possible that queries can be saved, closed, opened, and inserted within other queries (Neale, col 12, lines 52 – 65), such storage is similar to the what is found in Ono's organization/storage section, and can be seen only as those files that are used in a particular user instance.

A combination of Neale and Carter, so as to supply the missing "library" through Carter's dictionary of terms in Neale's query would not produce obviousness under 35

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USC 103(a), owing to the lack of analogy between the two environments of access seen in the two references. Carter is not creating "a list of items of interest satisfying a current set of criteria", so the dictionary there would not be seen by the person having ordinary skill in the art as an addition to Neale that is motivated by either reference.

2. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - Th from 9:00 AM to 4:00 PM ET.

4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (571) 272-4048. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

5. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

1 February 2006